

ATTACHMENT B

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

KRAFT FOODS GLOBAL, INC.; THE
KELLOGG COMPANY; GENERAL
MILLS, INC.; and NESTLÉ USA,
INC.,

Plaintiffs,

-vs-

UNITED EGG PRODUCERS, INC.;
UNITED STATES EGG MARKETERS,
INC.; CAL-MAINE FOODS, INC.;
and ROSE ACRE FARMS, INC.,

Defendants.

Case No. 11 CV 8808

Chicago, Illinois

October 24, 2023

9:07 a.m.

VOLUME 6-A
TRANSCRIPT OF PROCEEDINGS - Trial
BEFORE THE HONORABLE STEVEN C. SEEGER, and a Jury

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1 like much of an increase until you consider this represents at
2 least an increased revenue of 63 cents for every hen you own."

3 Q. And he's talking about the first ten months of the year
4 and that each company would receive a benefit of 63 cents for
5 every hen that it owned. At this point in time, Cal-Maine
6 owned about 26 million layers; is that correct?

7 A. Approximately, yes, sir.

8 Q. And that means that, according to Mr. Gregory's
9 calculations, Cal-Maine would have benefited from this annual
10 rise in price by about \$18 million, correct?

11 A. That was Mr. Gregory's math, yes.

12 Q. And egg producers overall would have benefited by about
13 \$200 million based on a flock layer of around 270 million,
14 correct?

15 A. According to Mr. Gregory, that would be correct.

16 Q. Let's go to the first sentence of the fourth bullet point.

17 Can you please read this.

18 A. "To fill this export, we had to purchase approximately
19 36,000 cases from those members that requested we buy their
20 commitment -- committed share. With the market moving rapidly
21 to higher prices, we found ourselves having to pay very high
22 prices to get the eggs. As we neared the completion of the
23 export, we found ourselves having to beg producers to pack
24 eggs for us. Because of this, the loss (difference between
25 sale price and cost) will be by far the largest USEM has ever

1 experienced. We hope that producers receiving an invoice for
2 their share of the loss will remember the benefit this export
3 provided for all the eggs they produced during this period."

4 Q. And the benefit would be the increased prices of eggs in
5 the U.S. market, correct?

6 A. Correct.

7 Q. And focusing on the first sentence, Mr. Gregory discusses
8 how to fill this export, USEM had to purchase approximately
9 36,000 cases for those members that requested that they buy
10 their committed share. That means that those members, those
11 USEM members, did not have 36,000 cases of eggs to export on
12 their own and they needed USEM to buy them, correct?

13 A. No.

14 Q. USEM had to purchase 36,000 cases for those members that
15 requested that they buy their committed share, correct?

16 A. Yes, but the members could have had their eggs, but the
17 economics of transportation didn't warrant them delivering
18 eggs across the country. So they asked USEM to purchase those
19 eggs.

20 Q. Well, this was right before Thanksgiving, and the prices
21 were high to purchase those eggs for USEM, correct?

22 A. Correct.

23 Q. So those transportation costs would have had to be very
24 high for them to ask USEM to buy the 36,000 cases, correct?

25 A. It was all logistics, yes, sir.

1 Q. And Mr. Gregory in this paragraph is communicating that
2 there was a large difference between the price of eggs
3 domestically that they were purchasing the eggs for and the
4 price that the eggs were being sold for internationally,
5 correct?

6 A. Correct.

7 Q. Looking at the last paragraph of the second page, can you
8 please read this paragraph.

9 A. "Thanks to each of you for your commitment and
10 participation. You did a good job of improving domestic
11 prices for all shell egg producers and those producers selling
12 eggs to egg breakers at prices in relationship to the Urner
13 Barry quote. We hope you realized the benefit of your company
14 received from this export."

15 Q. I'd like you now to turn to tab H of this binder. There
16 are two documents behind it, Exhibit 73 and Exhibit 59.

17 Do you see that?

18 A. I do.

19 Q. And Exhibit 59 is a memo from Gene Gregory to you at
20 Cal-Maine; is that correct?

21 A. That's correct.

22 Q. It's dated February 13th, 2007.

23 And Exhibit 73 lists USEM members in January of 2007,
24 correct?

25 A. Yes, sir.

1 breaker stock prices and have benefited those producers
2 selling eggs based upon the Urner Barry Breaking Stock quote."

3 Q. So this discusses how both shell egg prices and the
4 breakers had benefited from the exports, correct?

5 A. Correct.

6 Q. And the breakers benefit from the export because of the
7 Urner Barry calculation, what goes into that formula, correct?

8 A. Yes, sir.

9 Q. And the fewer eggs in the U.S. market, the higher both
10 shell eggs and egg products are on the Urner Barry system,
11 correct?

12 A. Correct.

13 Q. If we can look at the next paragraph, please.

14 All right. So this is what did it cost USEM members
15 to fill these exports.

16 Can you please read this.

17 A. "The October export cost each member 45.2 cents per dozen
18 and the January export cost each member 64.9 cents per dozen
19 for an average of the two exports being 59.4 cents per dozen.
20 Some members pack and deliver their own eggs and incur a loss
21 from the difference between the export sale price and what
22 their eggs would have been worth in the domestic market.
23 Others request that UEP purchase their committed share in the
24 open market and are then invoiced the difference between the
25 export sale price and the cost of the eggs purchased. Each

1 member with 1 million layers incurred an export loss of about
2 seven" -- excuse me -- "\$47,000 for the past two exports."

3 Q. Is he saying in this it's only those producers that have
4 to purchase eggs that can incur that loss or is he saying that
5 everybody incurs that loss?

6 A. My understanding, those that purchase eggs.

7 Q. All right. And those that purchase eggs, 1 million
8 layers, if you had a company that had 10 million layers, they
9 would have lost \$470,000 in this export, correct?

10 A. That would be the math, yes.

11 Q. But then he provided the benefit. He states later that it
12 improved the price of eggs by 23.9 cents a dozen.

13 Do you see that there?

14 A. That's his calculation, yes.

15 Q. Do you have any reason to doubt his calculation?

16 A. No. This goes back a long time, but I believe this
17 calculation is close.

18 Q. Can you please read that first paragraph.

19 A. "What were the benefits? With an improved price of 23.9
20 cents per dozen, a producer with 1 million hens realized an
21 approximately increased revenue of the \$1,740,000 over a
22 17-week period. The \$47,000 investment provided a major
23 return. Keep in mind this is increased revenue and not
24 profits."

25 Q. And if you consider the 26 million hens that Cal-Maine had

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C E R T I F I C A T E

We certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

/s/ Amy Kleynhans, CSR, RPR, CRR 10/25/2023
Official Court Reporter

/s/ Fran Ward, RPR, RMR, F/CRR 10/25/2023
Official Court Reporter

/s/ Judy Walsh, CSR, RDR, F/CRR 10/25/2023
Official Court Reporter